

Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.

Emergency Rules

DRIVER'S LICENSES

The SECRETARY OF STATE adopted emergency amendments to Issuance of Licenses (92 IAC 1030; 45 Ill Reg 5450) and Commercial Driver Training Schools (92 IAC 1060; 45 Ill Reg 5466), both effective 4/8/21 for a maximum of 150 days. Identical proposed amendments appear in this week's *Illinois Register* at 45 Ill Reg 5337 and 5340. The emergency and proposed amendments to both Parts extend indefinitely the duration of an SOS pilot program, previously scheduled to last 12 months, through which commercial driver training schools may administer road tests to license applicants under age 18 who have completed a driver education course. Additionally, amendments to Part 1030 expand access to the Safe Driver Renewal Program (SDRP) allowing certain drivers to renew their licenses by mail, telephone

COVID-19 ACTIONS

Numerous Executive Orders and emergency rules have been issued in response to the COVID-19 pandemic. Executive Orders of the Governor concerning this pandemic can be accessed at <https://www2.illinois.gov/government/executive-orders>. Emergency rules adopted by State agencies will be summarized in The Flinn Report as they are published in the *Illinois Register*.

or online without visiting an SOS Driver Services facility. Persons whose previous renewal was conducted through SDRP or online, or whose driver's license has been expired more than one year due to COVID-19 related circumstances, may use the SDRP procedure again if they are not disqualified for other reasons (e.g., age, driving record).

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Proposed Rulemakings

DAY CARE

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES proposed amendments to Licensing Standards for Day Care Homes (89 IAC 406; 45 Ill Reg 4976), Licensing Standards for Day Care Centers (89 IAC 407; 45 Ill Reg 5057) and Licensing Standards for Group Day Care Homes (89 IAC 408; 45 Ill Reg 5156) implementing recent changes in the Child Care Act and other statutes, along with updated requirements concerning nutrition, activity, licensee/staff training, emergency preparedness, and other matters.

Nutrition

Detailed meal and snack charts for children of various ages are added to each Part. Children under age

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ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.
PROPOSED RULES: Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.
PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.
■ Designates rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.
QUESTIONS/COMMENTS: Submit mail, email or phone calls to the agency personnel listed below each summary.
RULE TEXT: Available on the Secretary of State (www.cyberdriveillinois.com) and General Assembly (www.ilga.gov) websites under *Illinois Register*. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

Adopted Rules

■ FILM & TV PRODUCTION

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY adopted amendments to Illinois Film Production Services Tax Credit Program (14 IAC 528; 44 Ill Reg 19363), effective 4/12/21, clarifying aspects of DCEO's tax credit program for Illinois-based film and television production. The rulemaking stipulates that post-production expenses such as film editing, visual effects, and editing of sound, music and dialogue must be provided in Illinois by Illinois residents in order to claim the credit for these expenses. Documentation of post-production costs must include a listing of all Illinois resident post-production staff and crew, along with their wages and fringe benefits, and any payments made to sub-vendors domiciled in Illinois. Up to \$100,000 in wages, fringe benefits and payments to sub-vendors may be reported toward the tax credit. The rulemaking also aligns with current statute the definition of businesses owned by minorities, women or persons with disabilities (part of the diversity impact data that claimants of the credit must report to DCEO). Those affected by this rulemaking include film and TV production crews, actors and extras working in Illinois-based film or TV productions.

Questions/requests for copies:
Jolene Clarke, DCEO, 500 E. Monroe St., Springfield IL 62701,
jolene.clarke@illinois.gov

SCHOOLS

The STATE BOARD OF EDUCATION adopted amendments to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 44 Ill Reg 16402) effective 4/12/21, implementing PA 101-254. Beginning with the 2020-21 school year, elementary schools must include in 6th, 7th or 8th grade at least one semester of civics education that aligns with Illinois learning standards for social science and focuses on government institutions, discussion of current and societal issues, service learning, and simulations of the democratic process. At least one semester of similar civics instruction is also required in high school. Additionally, no student shall be graduated from 8th grade without receiving required instruction in American history, patriotism and the principles of representative government and giving evidence of comprehensive knowledge of these subjects, which may include a written test or the teacher's evaluation of the student's work. SBE states that this rulemaking is intended to clarify that passage of a written examination on American history and civics (e.g., U.S. and Illinois Constitution tests) is required only once and that completion of the exam in elementary school satisfies high school graduation requirements.

Questions/requests for copies:
Azita Kakvand, SBE, 100 N. First St., Springfield IL 62777-001, 217/782-6510, rules@isbe.net

■ VIDEO GAMING

The ILLINOIS GAMING BOARD adopted amendments to Video Gaming (General) (11 IAC 1800; 44 Ill Reg 19454) effective 4/12/21, establishing standards for record retention by video gaming terminal operators. Terminal operators must keep their business records secure from theft, loss or destruction and make them available to IGB upon request. Records must be kept for the length of time established in the IGB Records Retention Schedule published and updated by the IGB Administrator, or longer if required by State or federal law, general accounting/auditing procedures, or litigation needs. Records may be maintained in print, in a digital format prescribed by the Administrator, or in any manner accessible to the Board and must be organized and indexed in a manner that provides accessibility to Board agents within a reasonable time (changed since 1st Notice from immediate accessibility). Records that must be kept include, but are not limited to, all forms, reports, ledgers, audit records, computer-maintained and generated data, promotional material, advertising, correspondence, and personnel records. Licensees may not destroy any record or document that these rules require them to maintain without prior approval of the Administrator. Video gaming terminal operators are affected.

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Proposed Rulemakings

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2 must be served whole milk, while children age 2 and older must be served milk with 1% or less fat content. Beverages with added sweeteners shall not be served. Ice cream or milk-based pudding may be served as a dessert, but cakes, cookies, pastries and other high-fat foods shall not be served. Edible protein (e.g., red meat, chicken, fish, eggs, cheese/dairy products, legumes, peanut butter) must be included in every meal. Parents may bring commercially prepared foods for birthday or holiday celebrations only in

unopened packaging directly from the baker or manufacturer.

Activity

Passive screen viewing of television, videos, DVD or other non-interactive media is not permitted for children under age 2 and is limited to no more than 60 minutes in 6 hours for children ages 2 and above. (If the program day is less than 6 hours, screen time must be prorated accordingly, e.g., 50 minutes over 5 hours, etc.) A single session of passive screen viewing shall not exceed 30 minutes. Videos or programs

viewed must be age and developmentally appropriate. Children enrolled in all-day programs shall be encouraged to take part in outdoor activities at least twice daily, weather permitting. During inclement weather, active play in an indoor play area shall be encouraged. Children who are mobile shall not remain sedentary for more than 30 minutes at a time except during scheduled rest or nap times.

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Emergency Rules

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Formerly, drivers could not renew via SDRP if their license was expired more than one year or if their previous renewal had been completed by mail, phone or online.

Questions/requests for copies/comments on the 2 proposed SOS rulemakings through 6/7/21: Brenda Glahn, SOS, 298 Howlett Bldg., Springfield IL 62756, 217/785-3094, bglahn@ilsos.gov

■ TELEHEALTH

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted an emergency amendment to Medical Payment (89 IAC 140; 45 Ill Reg 5419) effective 4/9/21 for a maximum of 150 days. An identical proposed amendment appears in

this week's *Register* at 45 Ill Reg 5300. The emergency and proposed rules allow qualified health care professionals (formerly, only physicians, advanced practice registered nurses, or physician assistants) to conduct virtual patient check-ins for telehealth encounters during a public health emergency. Healthcare providers offering telehealth services are affected by this emergency rule.

Questions/requests for copies/comments on the proposed rulemaking through 6/7/21: Steffanie Garrett, HFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, HFS.Rules@illinois.gov

■ ACUPUNCTURE

The DEPARTMENT OF FINANCIAL AND

PROFESSIONAL REGULATION adopted an emergency amendment to the Part titled Acupuncture Practice Act (68 IAC 1140; 45 Ill Reg 5409) effective 4/12/21 for a maximum of 150 days, allowing all required continuing education credit hours for license renewal during the 2021 renewal cycle to be completed through self-study or online (previously, 7 of the required 30 CE hours had to be completed through in-person instruction). Licensed acupuncturists are affected by this emergency rule.

Questions/requests for copies: Craig Cellini, DFPR, 320 West Washington, 2nd Fl., Springfield IL 62786, 217/785-0813, fax: 217/557-4451.

Proposed Rulemakings

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Hazards/Emergencies

Day care license applicants and licensees must file an emergency preparedness and response plan that outlines the specific responsibilities of staff members during emergencies and includes provisions for evacuation; relocation; sheltering in place; lockdown procedures; continuity of operations; communication with families; reunification of children and parents; and accommodation of infants, toddlers, and children with disabilities or chronic medical conditions. Caregivers and assistants must review and practice these emergency procedures at least every 6 months. Drills for responding to an active threat of violence must be conducted and documented twice

a year. Tornado drills will be required twice a year (currently, monthly). Hazard protection plans filed with DCFS must include a staff vaccination plan consistent with recommendations by the federal Centers for Disease Control and Prevention. A Medical Action Plan shall be kept on file for each child with allergies or other chronic medical conditions.

Smoking/Cannabis Use

Smoking (including vaping or use of e-cigarettes) is prohibited at all times within a day care home or facility, including times when the day care is not operating and areas of the same building that are not licensed for day care use. Possession or use of cannabis or cannabis-infused products is prohibited on the premises of a day care center or home, in any

vehicle used to transport children or parked on the day care premises, or in any location where a child being served could observe or smell marijuana.

Staff Training

Within 36 months after the effective date of these rulemakings, all day care licensees must complete approved training in child care business administration/management. Persons who receive initial licenses after that date must complete the training within 36 months after licensure. Caregivers and staff who handle unpackaged food, food equipment or utensils, or food-contact surfaces must complete food handler training approved by the Illinois Department of Public Health or the American National Standards Institute every 3 years. Additional subjects to be covered in pre-service and in-service training for license applicants and licensees include prevention and control of infectious disease, including immunizations; administration of medication to children; preventing and responding to food and allergic reaction emergencies; disposal of bio-contaminants and hazardous materials; and precautions for transporting children.

Other

Other provisions update various definitions; clarify Gateways to Opportunity educational

Adopted Rules

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Questions/requests for copies: Agostino Lorenzini, IGB, 160 N. La Salle St., Chicago IL 60601, IGB.RuleComments@iqb.illinois.gov

PUBLIC INFORMATION

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES repealed the Part titled Freedom of Information (2 IAC 1101; 45 Ill Reg 5386) and adopted a new Part titled Access to Records of the Department of Healthcare and Family Services (2 IAC 1101; 45 Ill Reg 5388), both effective 4/9/21. The new Part reflects changes in the Illinois

Freedom of Information Act since the former Part was last amended in 2004, including timelines of 5 business days to respond to general FOIA requests and 21 business days for responding to requests made for a commercial purpose; procedures for responding to recurrent or burdensome requests; and procedures for requesters to seek review of a denied request by the Attorney General's Public Access Counselor.

Questions/requests for copies: Steffanie Garrett, HFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002.

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Proposed Rulemakings

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requirements for licensees and staff; require applicants for day care home licenses to live at, and own or lease, the address for which they are seeking licensure; add provisions for enrollment of children from homeless families; and clarify employment and work restrictions for licensees during licensed child care hours. Day care providers, employees, volunteers, parents and children are affected by these rulemakings.

Questions/requests for copies/ comments on the 3 DCFS rulemakings through 6/7/21: Jeff Osowski, DCFS, 406 E. Monroe St., Station #65, Springfield IL 62701-1498, 217/524-1983, TDD: 217/524-3715, fax: 217/557-0692, DCFS.Policy@illinois.gov

■ SUPPORTIVE HOUSING

The DEPARTMENT OF HUMAN SERVICES proposed amendments to the Part titled Permanent Supportive Housing & Bridge Subsidy Model for Persons with Mental Illnesses (59 IAC 145; 45 Ill Reg 5302), which governs a DHS program providing subsidized housing and various supportive services to persons with mental illness who would otherwise be at risk of homelessness or institutionalization. The rulemaking requires Permanent Supportive Housing (PSH) models to utilize scattered site housing, with rental arrangements made directly with the property owners; allows

monthly case management wellness visits to be conducted virtually or at alternative locations (currently, at the consumer's home); and allows State-contracted service providers (currently, Community Mental Health Centers) to provide services. Eligibility for PSH, which is currently limited to adults with a diagnosis of serious mental illness, is extended to Colbert Class Members (Medicaid-eligible adults residing in Cook County nursing homes; the *Colbert vs. Quinn* federal consent decree requires the State to assist these persons in finding independent housing if they do not need to be institutionalized). Stipends or allowances given to persons with disabilities for basic needs, or as an incentive to participate in a government-sponsored employment program, will not be counted in determining financial eligibility. Other provisions update the list of serious mental illness diagnoses that qualify consumers for PSH and clarify various responsibilities assigned to service providers, which include insuring tenant and landlord compliance with flexible leasing terms. Those affected by this rulemaking include PSH tenants, property owners, and service provider agencies.

Questions/requests for copies/ comments through 6/7/21: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217/785-9772.

UTILITIES

The ILLINOIS COMMERCE COMMISSION proposed an amendment to the Part titled Construction of Electric Power and Communication Lines (83 IAC 305; 45 Ill Reg 5245) incorporating the 2017 (currently, 2002) edition of the National Electrical Safety Code.

Questions/requests for copies/ comments through 6/7/21: Elizabeth Rolando, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/782-7434.

■ NUCLEAR SAFETY

The ILLINOIS EMERGENCY MANAGEMENT AGENCY proposed amendments to General Provisions for Radiation Protection (32 IAC 310; 45 Ill Reg 5249) that clarify the definition of dosimetry processor to include new technologies for obtaining and storing dosimetry results; revise other definitions to match the radioactive material licensing regulations of the U.S. Nuclear Regulatory Commission; and remove duplicative language found in the Radiation Protection Act of 1990 and other regulations. The rulemaking also establishes an exemption to licensing fees for federal agencies and their contractors when providing training for State and local entities and clarifies when and how to submit communications electronically. IEMA also proposed

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Proposed Rulemakings

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amendments to the Part titled Compensation of Local Governments for Emergency Planning and Participation in Nuclear Emergency Response Exercises (32 IAC 501; 45 Ill Reg 5280) updating agency contact information and procedures for submitting documentation to the IEMA grant portal. Those affected by these rulemakings include entities with radioactive material licenses and local governments seeking IEMA emergency planning grants.

Questions/requests for copies/comments on the 2 IEMA rulemakings through 6/7/21: Traci Burton, IEMA, 1035 Outer Park Drive, Springfield IL 62704, 217/720-8242.

■ REAL ESTATE APPRAISAL

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

proposed amendments to Real Estate Appraiser Licensing (68 IAC 1455; 45 Ill Reg 5286) reflecting changes in the publication schedule of the national Uniform Standards of Professional Appraisal Practice (USPAP). The rulemaking updates the expiration date of the current USPAP to 12/31/22 and requires appraisers to complete their 7-hour National USPAP Update Course or its equivalent by June 30 of the calendar year (currently, an even-numbered year) following the release of USPAP. Real estate appraisers are affected by this rulemaking.

Questions/requests for copies/comments through 6/7/21: Craig Cellini, DFPR, 320 W. Washington, 2nd Fl., Springfield IL 62786, 217/785-0813, fax: 217/557-4451.

HORSE RACING

The ILLINOIS RACING BOARD proposed an amendment to

Claiming Races (11 IAC 510; 45 Ill Reg 5333) that allows a recently claimed thoroughbred horse to race for the same claiming price or higher for 30 days after it is claimed. (Currently, a horse cannot run for less than 125% of its original claiming price for the first 20 days after it is claimed, but can race for the same price or higher from the 21st through 30th days after being claimed.) Beginning with the 31st day after the claim, the horse may race for less than its original claiming price. IRB states that this amendment will enable smaller stables to be more competitive, since it reduces the chance that a recently claimed horse will be kept from racing if it does not show ability to compete at a higher level.

Questions/requests for copies/comments through 6/7/21: Bob Denneen, IRB, 100 West Randolph St., Suite 5-700, Chicago IL 60601, 312/814-5017, Bob.Denneen@Illinois.gov

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be listed in next week's *Illinois Register* and considered at the May 18, 2021 JCAR meeting. Other items not published in the *Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

DEPT OF HUMAN SERVICES

Temporary Assistance for Needy Families (89 IAC 112; 44 Ill Reg 19632) proposed 12/28/20

Aid to the Aged, Blind or Disabled (89 IAC 113; 44 Ill Reg 19649) proposed 12/28/20

Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121; 44 Ill Reg 19663) proposed 12/28/20

Electronic Prescription Monitoring Program (77 IAC 2080; 44 Ill Reg 17587) proposed 11/5/20

DEPT OF INSURANCE

Minimum Benefit Standards for Diabetes Coverage (50 IAC 2019; 44 Ill Reg 14416) proposed 9/11/20

STATE BOARD OF EDUCATION

Educator Licensure (23 IAC 25; 44 Ill Reg 18003) proposed 11/13/20

Joint Committee on Administrative Rules

Senator Bill Cunningham, *co-chair*

Representative Tom Demmer

Senator John F. Curran

Representative Michael Halpin

Senator Donald DeWitte

Representative Frances Ann Hurley

Senator Kimberly Lightford

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Representative Keith Wheeler, *co-chair*

**Kim Schultz
Executive Director**